

1 Joshua Briones (SBN 205293)
jbriones@mintz.com
2 Nicole V. Ozeran (SBN 302321)
nvozeran@mintz.com
3 MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO P.C.
4 2029 Century Park East Suite 3100
5 Los Angeles, CA 90067
Telephone: 310-586-3200
6 Facsimile: 310-586-3202
7 Claire C. Newland (SBN 301017)
ccnewland@mintz.com
8 MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO P.C.
9 44 Montgomery Street, 36th Floor
10 San Francisco, CA 94104
Telephone: 415-432-6000
11 Facsimile: 415-432-6001
12 Attorneys for Defendant
13 Yelp Inc.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 JONATHAN SAPAN, individually and on
18 Behalf of All Others Similarly Situated,

19 Plaintiff,
20 vs.

21 YELP INC., a Delaware Corporation,

22 Defendant.

Case No. 3:17-cv-03240-JD

**DECLARATION OF IAN MACBEAN IN
SUPPORT OF DEFENDANT YELP INC.'S
OPPOSITION TO PLAINTIFF'S MOTION
FOR CLASS CERTIFICATION**

Hearing:

Date: April 19, 2018
Time: 10:00 a.m.
Dept.: 11
Judge: Honorable James Donato

Complaint Filed: June 6, 2017

DECLARATION OF IAN MACBEAN

I, Ian MacBean, declare as follows:

1. I have been employed at Yelp Inc. ("Yelp") since January 2008. I have personal knowledge of the facts contained in this declaration, unless otherwise indicated. Where appropriate, I have relied on records prepared and maintained by Yelp in the normal course of its business.

2. I am the Director of User Operations and Ombudsman at Yelp Inc. (“Yelp”) and, among other responsibilities, I investigate Yelp user and business accounts for potential Terms of Service Violations, and enforce those Terms of Service against user and business accounts. This includes investigating user and business accounts using Yelp’s internal tools. I also supervise and train other Yelp User Operations employees on Yelp’s internal administrative tools and procedure.

3. As Director of User Operations, my primary duty is to oversee the policies and processes that inform what business information is displayed on a Yelp business page, and how such information is displayed. In this role, I also have knowledge as to how Yelp users and business accounts provide phone numbers to Yelp.

OPERATIONS VETTING PROCESS FOR YELP BUSINESS PAGES

4. Yelp's business relies on the helpfulness to consumers of the information that it publishes. Therefore, Yelp dedicates time to get businesses familiar with Yelp and confirm that their Yelp business pages are accurate.

5. Yelp also separately verifies business information through its own internal vetting processes. Yelp's call verification team members contact businesses with Yelp business pages to verify the information displayed on their Yelp business pages. For example, Yelp's call verification team members verify business addresses, business names, operating hours, listed contact information (including phone numbers) and determine whether any business closure Yelp learns about is permanent or temporary. Generally, Yelp seeks to verify information within forty-eight hours after a business page has been added to Yelp or after an edit has been suggested by a user or business, although Yelp often exceeds that goal.

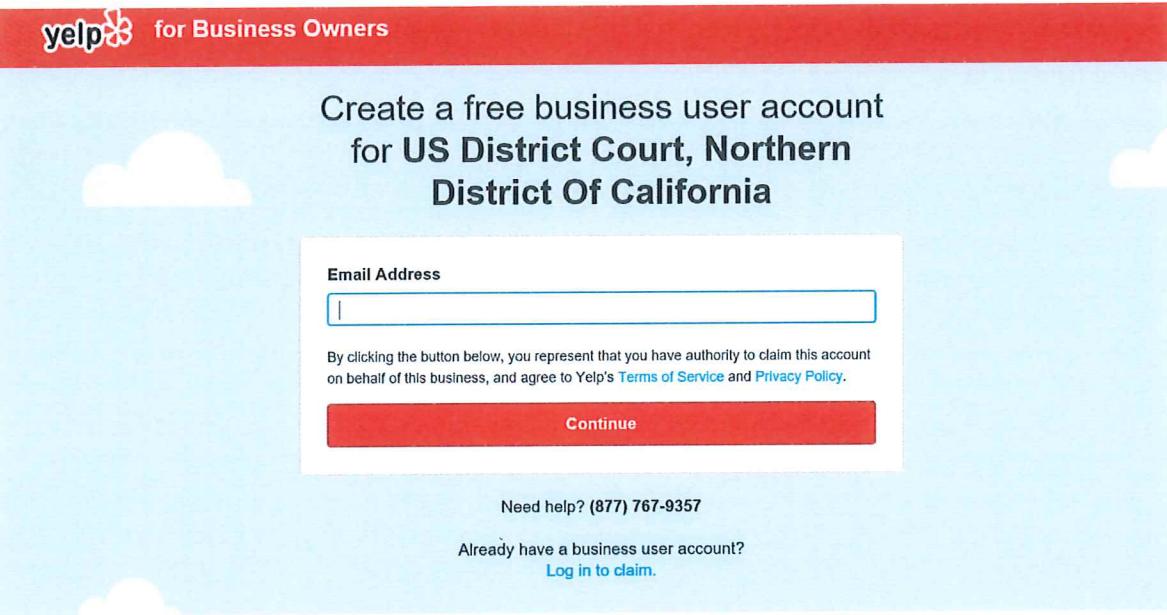
1 6. If a call verification team member determines that the telephone number suggested
2 as an edit on the Yelp business page by the business' representative is incorrect, the incorrect phone
3 number is removed from the Yelp business page. If a call verification team member determines that
4 the telephone number suggested as an edit on the Yelp business page by a consumer is incorrect, the
5 incorrect phone number is not published on the Yelp business page in the first place.

6 7. Another facet of the vetting process involves business representatives claiming their
7 Yelp business page. Attached as **Exhibit A** is a true and correct copy of the page
8 <https://biz.yelp.com/support/claiming>, which I viewed on March 21, 2018. This page explains how
9 a business representative can claim his or her Yelp business page through the Yelp website or
10 mobile app. After a business representative claims his or her page, the business representative can
11 then confirm information such as business hours or the telephone number(s).

12 **HOW BUSINESS REPRESENTATIVES PROVIDE THEIR PHONE NUMBERS TO YELP**

13 8. A Yelp business representative may provide his or her phone number when he or she
14 registers or claims a Yelp business page.

15 9. When a business representative registers or claims his or her Yelp business page, he
16 or she agrees to Yelp's Terms of Service and Privacy Policy. Since 2013, the online registration
17 process for a user to establish a free business account has included the statement, "By clicking the
18 button below, you represent that you have authority to claim this account on behalf of this business,
19 and agree to Yelp's Terms of Service and Privacy Policy." The "Terms of Service" and "Privacy
20 Policy" text are in blue font and are hyperlinked such that when the user clicks on the text, he or she
21 is taken to the Yelp Terms of Service or Privacy Policy, as appropriate. The "button below" refers
22 to a red "Continue" button underneath the text that takes the user to the next step in the registration
23 process. A user cannot proceed past the "Create a free business user account" page unless he or she
24 clicks on the red button. Below is a screenshot reflecting Yelp's "Create a free business user
25 account" page, which I viewed on March 21, 2018:



10. A business representative separately may provide his or her phone number to a Yelp
11. Community Manager. A Community Manager is a Yelp marketing employee who works with local
12. businesses to sponsor local events.

13. Alternatively, a business representative may provide his or her phone number to a
14. member of Yelp's sales team.

15. Individual records for each Yelp business page, including but not limited to records
16. concerning edits to the page made by businesses or consumers, call records to the business, and any
17. other related documentation, would need to be evaluated in order to determine how Yelp obtained
18. the number.

19. I declare under penalty of perjury under the laws of the United States of America that the
20. foregoing is true and correct. Executed on March 21, 2018, at San Francisco, California.

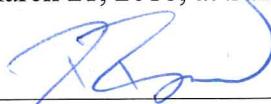
21.
22.
23. 
24. Ian MacBean

EXHIBIT A

for Business Owners[Log In](#) [Sign Up](#)**Getting Started**

- [Why Yelp?](#)
- [Claiming your Business](#)

- [Case Studies](#)
- [Mobile App](#)

Products & Services

- [Free Tools](#)
- [Self Service Ads](#)
- [Full Service Ads](#)
- [Compare](#)

Claiming your Business

[Call \(877\) 767-9357](#)

The best way to manage your business on Yelp is by claiming your Yelp Business Page and creating a business login. It's a great, free way to engage the Yelp community.

**After claiming your business page, you'll be able to:**

- Respond to reviews with a direct message or a public comment
- Track the User Views and Customer Leads Yelp is generating for your business
- Add photos and a link to your website
- Update important information such as your business hours and phone number

More on how to claim

To begin the claim process, click the "Claim your business" button. Follow the easy steps to find your business and create your business user account.

To verify that you are the owner of your business, Yelp may call the number listed on your business page and prompt you to enter a verification code. Please ensure you are at your place of business to answer this phone call. [Learn more.](#)

[Claim your Business](#) or [Log in](#)[Call \(877\) 767-9357](#)[Terms of Service](#) [Privacy Policy](#) [Ad Choices](#) [Content Guidelines](#) [Blog](#) [Webinars](#) [Support](#)Language [English ▾](#)

Need help? (877) 767-9357

Go mobile with the [Yelp for Business Owners app](#) for iOS and Android.Copyright © 2004–2018 Yelp Inc. Yelp,  and related marks are registered trademarks of Yelp.